

FILED

FEB 10 2010

Tennessee Claims Commission
CLERK'S OFFICE

Claim No. T20100118

SECRET

ORDER OF DISMISSAL

The State argues that the Commission lacks subject matter jurisdiction to consider claims based upon the acts or omission of persons

who are not "state employees" and that the claimant fails to state a claim for relief against the State based upon the actions of employees of the Metropolitan Government of Nashville and Davidson County.

Discussion

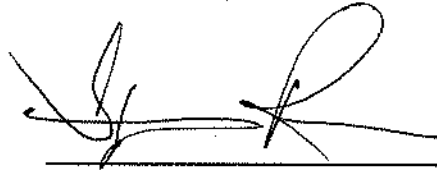
The State of Tennessee, as a sovereign, is immune from suit except as it consents to be sued. *Stewart v. State*, 33 S.W.3d 785, 790 (Tenn. 2000). In abrogation of its sovereign immunity, the State has conferred the Claims Commission with "exclusive jurisdiction to determine all monetary claims against the state based on the acts or omissions of "state employees," as such term is defined in § 8-42-101(3)...." Tenn. Code Ann. § 9-8-307(a)(1).

The definition of "state employee" includes "any person who is employed in the service of the state and whose compensation is payable by the state." Tenn. Code Ann. § 8-42-101(3)(A). Employees of the Metro Nashville Police Department are not employees of the State and the State has not waived its sovereign immunity for their acts or omissions under Tenn. Code Ann. § 9-8-307(a)(1).

The Claims Commission has no authority to hear claims arising from the acts of non-state employees, including employees of the Metropolitan Government of Nashville and Davidson County.

Because the Commission finds that there is no allegation of acts or omissions by state employees, the complaint falls outside of the Claims Commission's subject matter jurisdiction and the State's motion must be granted.

It is so **ORDERED** this the 9th day of February 2010.

A handwritten signature in black ink, appearing to read 'Stephanie R. Reeves', is written over a horizontal line.

STEPHANIE R. REEVERS
Claims Commissioner

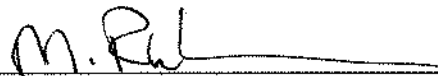
CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served upon the following parties of record:

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This 10 day of Feb, 2010.


Marsha Richeson, Administrative Clerk
Tennessee Claims Commission